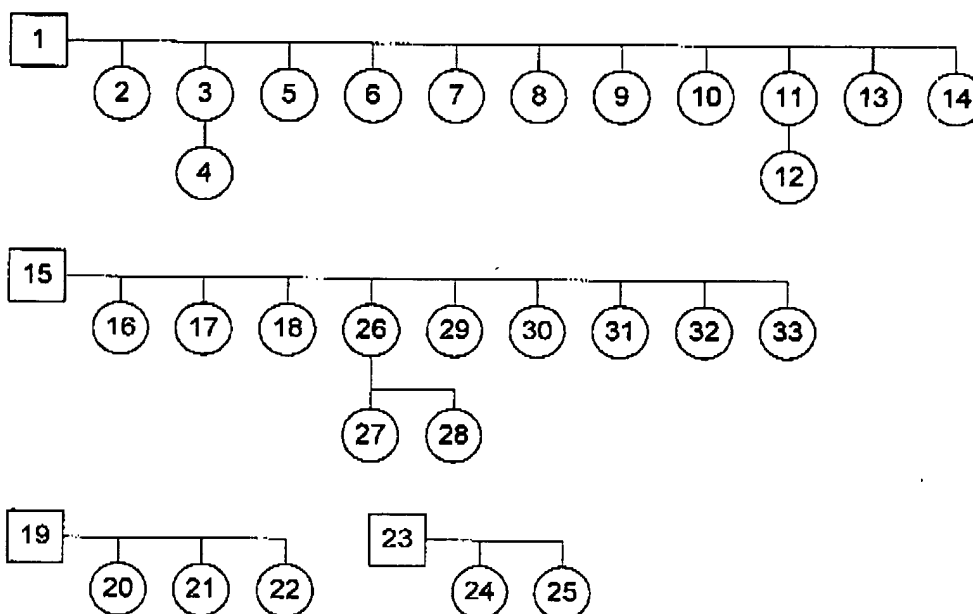


In re Application of LEVIDOW et al.
Application No. 10/040,222

REMARKS

Reconsideration of the application is respectfully requested. An Office action mailed October 21, 2004 is pending in the application. Applicants have carefully considered the Office action and the references of record. In the Office action, claims 1-25 were rejected under 35 U.S.C. § 103. In this response to the Office action, claims 1, 15, 19 and 23 have been amended, and claims 26-33 have been added. Therefore, claims 1-33 are pending in the application. The following diagram depicts the relationship between the independent and dependent claims.



Rejections Under 35 U.S.C. § 103 of the Independent Claims

Each of the independent claims 1, 15, 19 and 23 stands rejected under 35 U.S.C. § 103(a) as being unpatentable over combinations of U.S. Patent No. 6,654,798 to Skibinski et al. (hereinafter *Skibinski*), U.S. Patent No. 6,647,492 to Nathan et al. (hereinafter *Nathan*) and U.S. Patent No. 6,594,786 to Connelly et al. (hereinafter *Connelly*).

However, the Manual of Patent Examining Procedure (M.P.E.P.) states that, to support the rejection of a claim under 35 U.S.C. § 103(a), each feature of each rejected claim must be

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taught or suggested by the applied prior art, and that each of the words describing the feature must be taken into account.

To establish *prima facie* obviousness of a claimed invention, all the claim limitations must be taught or suggested by the prior art. ... All words in a claim must be considered in judging the patentability of that claim against the prior art.

(M.P.E.P. § 2143.03, emphasis added). Each of the independent claims 1, 15, 19 and 23 as amended herein includes at least one feature not taught or suggested by *Skibinski*, *Nathan* or *Connelly*, alone or in combination, and is therefore patentable for at least this reason.

In particular, each of the independent claims 1, 19 and 23 is amended herein to clarify the nature of the shutdown of the computer in embodiments of the invention. For example, independent claim 1 as amended requires that the shutdown of the computer include a shutdown of the operating system of the computer. The operating system of the computer manages one or more user-mode processes, and it is the state of these user-mode processes managed by the operating system that is captured for subsequent analysis.

A shutdown of a computer, the computer having an operating system managing at least one user-mode process, the shutdown of the computer including a shutdown of the operating system ... capturing the state of the at least one user-mode process for subsequent analysis.

(Independent claim 1, as amended). *Skibinski* is cited in the Office action as teaching a shutdown of a computer but, in fact, *Skibinski* describes merely "a logon/log-off procedure for management purposes." (*Skibinski*, column 1, lines 64-65). The present application distinguishes between shutting down the computer and session log-off, (see page 9, lines 2-4, referencing Figure 5) and **shutting down the computer and shutting down the operating system of the computer**. Independent claims 1, 19 and 23 are amended herein to clarify this distinction if it was not clear previously. In accordance with common usage of the term in the art, 'log-off' in *Skibinski* does not include shutting down of the operating system. The collection of information in *Skibinski* occurs in a conventional context in contrast to the context of shutting down the computer and shutting down the operating system of the computer as required by independent claims 1, 19 and 23. Therefore, the rejection under 35 U.S.C. § 103(a) of independent claims 1, 19 and 23 should be withdrawn

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Independent claim 15 is amended herein to clarify the nature of the snapshot in embodiments of the invention. Independent claim 15 requires a plurality of user-mode processes, each with a state. The snapshot is taken of the state of each the processes. Independent claim 15 requires that the snapshot includes at least one parameter of **each** process.

Taking a snapshot of a current state of each of a plurality of user-mode processes, the snapshot comprising at least one parameter of **each** user-mode process.

(Independent claim 15, as amended, emphasis added). The Office action cites a timestamp in a status file (*Connelly*, column 7, lines 48-52) as teaching the snapshot of the present application. However, even if, for the purposes of applying *Connelly* to the claims, a timestamp in a status file can be construed as the snapshot of the present application, a timestamp in a status file fails to teach or suggest the snapshot including at least one parameter of each user-mode process. Independent claim 15 requires that each parameter be one of the parameters of a user-mode process whereas the timestamp of *Connelly* is independent of the parameters of a user-mode process. Furthermore, independent claim 15 requires at least one parameter for each of a plurality of user-mode processes whereas the timestamp of *Connelly* is unrelated to the number of user-mode processes. In fact, neither *Connelly* nor *Skibinski* nor *Nathan*, nor any of the prior art of record, alone or in combination, teaches or fairly suggests the snapshot with the claimed features. For at least this reason, the rejection under 35 U.S.C. § 103(a) of independent claim 15 should also be withdrawn.

The Remaining Dependent Claims

Each of claims 1, 15, 19 and 23 is in independent form, whereas all of the remaining claims depend directly or indirectly on one of these four independent claims. The dependent claims are allowable for at least the same reasons that the four independent claims 1, 15, 19 and 23 are allowable in that the dependent claims incorporate the features of the independent claims. Nevertheless, the dependent claims further define subject matter not shown or rendered obvious by the prior art of record. Because the independent claims are allowable over the applied prior art, applicants do not believe remarks addressing this further subject matter are necessary herein.

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Newly Added Claims

Claims 26-33 have been added in this amendment to more particularly point out and distinctly claim the invention as described by the specification. In compliance with 37 C.F.R. § 1.121(f), they do not add new matter.

Objections to the Drawings

In the Office action, the drawings were objected to as failing to include reference signs mentioned in the specification. The specification has been amended herein so as to be in accordance with the originally filed drawings. Therefore, in compliance with 37 C.F.R. § 1.121(f), this amendment adds no new matter.

CONCLUSION

The application is considered in good and proper form for allowance, and the examiner is respectfully requested to pass this application to issue. If, in the opinion of the examiner, a telephone conference would expedite the prosecution of the subject application, the examiner is invited to call the undersigned attorney.

Respectfully submitted,



Richard P. Dodson, Reg. No. 52,824
LEYDIG, VOIT & MAYER, LTD.
Two Prudential Plaza, Suite 4900
180 North Stetson
Chicago, Illinois 60601-6780
(206) 521-5987 (telephone)
(206) 224-3557 (facsimile)

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